

# EXHIBIT A

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

SARAH LYNN FOWLER

Petitioner,

v.

PENNSYLVANIA DEPARTMENT OF  
HUMAN SERVICES; TERESA D.  
MILLER, in her official capacity as  
secretary of the Department of Health  
and Human Services;  
PENNSYLVANIA PROFESSIONAL  
STANDARDS AND PRACTICES  
COMMISSION

Respondent.

No.: 574 MD 8080  
ORIGINAL JURISDICTION

15 OCT 2020 15 10  
RECEIVED  
CLERK OF COURT  
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**NOTICE TO PLEAD**

**TO: Pennsylvania Department of Human Services, Teresa D. Miller, and  
Pennsylvania Professional Standards and Practices Commission.**

You are hereby notified to file a written response to the Petition for Review in the Nature of a Complaint for Declaratory Judgment, Mandamus, and Equitable Relief within thirty (30) days from service hereof or a judgment may be entered against you.

Dated: October 15, 2020

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**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

SARAH LYNN FOWLER  
Petitioner,

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PENNSYLVANIA DEPARTMENT OF  
HUMAN SERVICES; TERESA D.  
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PENNSYLVANIA PROFESSIONAL  
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No.: 574 MO 2020  
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15 OCT 2020 15 10  
CLERK OF COURT  
JUDICIAL BRANCH

**PETITION FOR REVIEW IN THE NATURE OF  
A COMPLAINT IN EQUITY, MANDAMUS, AND  
FOR DECLARATORY RELIEF**

Petitioner, Sarah Lynn Fowler, by and through counsel, presents a facial and as-applied constitutional challenge to Sections 6303 and 6368 of the Child Protective Services Law (“the CPSL”), 23 Pa. C.S. §§ 6303, 6368, and to Section 9d(a)(1) of the Educator Discipline Act.<sup>1</sup>

<sup>1</sup> Act of December 12, 1973, P.L. 397, added by the Act of December 18, 2013, P.L. 1205, 24 P.S. § 2070.9d(a)(1).

Petitioner alleges that the CPSL is constitutionally deficient in that it (1) fails to provide pre-deprivation due process to individuals listed on the statewide ChildLine database as a perpetrator in an indicated report of child abuse; and (2) fails to provide a pre-deprivation hearing to individuals identified as a perpetrator in a founded report of child abuse by virtue of acceptance in an accelerated rehabilitative disposition (“ARD”) program. Petitioner further alleges that Section 9d (a)(1) of the Educator Discipline Act is constitutionally deficient because it strips public school employees of the right to work in their chosen professions without adequate due process protections. To those ends, Petitioner respectfully submits the following:

## **I. PARTIES**

1. Sarah Lynn Fowler (“Petitioner”) is an adult citizen of the United States and of the Commonwealth of Pennsylvania. At all times relevant, Petitioner has resided in Etters in York County, Pennsylvania.

2. Petitioner is a professional educator. From January 1, 2014 until February 1, 2020, Petitioner held a professional Instructional I certifications (PK-4 and special education PK-8) issued by the Pennsylvania Department of Education (PDE).

3. Respondent Pennsylvania Department of Human Services (“DHS”) is a Commonwealth agency. DHS has a primary business address at 625 Forster Street, Harrisburg, Pennsylvania.

4. Respondent Teresa Miller is the Secretary of the Department of Health and Human Services. She is named in this suit in her official capacity. At all times relevant, Respondent Miller acted under color of state law. Respondent Miller is a person for purposes of 42 U.S.C. § 1983 when sued for injunctive relief. Will v. Mich. Dep’t of State Police, 491 U.S. 58, 71 n.10 (1989).

5. Respondent Pennsylvania Professional Standards and Practices Commission (PSPC) is a Commonwealth agency. Relevant to the instant litigation, the PSPC is charged with directing the PDE to impose discipline on certified educators in accordance with the Pennsylvania Educator Discipline Act.

## **II. JURISDICTION**

6. This Court has original jurisdiction over the equitable claims asserted pursuant to Section 761(a) of the Pennsylvania Judicial Code, 42 Pa. C.S. § 761(a).

7. This Court has the authority to issue declaratory relief pursuant to the Declaratory Judgments Act, 42 Pa. C.S. §§ 7531 - 7541.

8. Declaratory relief is appropriate because Petitioner’s administrative remedy is inadequate, and because Petitioner requires relief from uncertainty with respect to her rights.

9. This Court has original jurisdiction over claims asserted against state officials under 42 U.S.C. § 1983 insofar as these claims solely seek injunctive and declaratory relief. Fawber v. Cohen, 532 A.2d 429, 433 (Pa. 1987).

10. Petitioner lacks a viable remedy at law.

### **III. BACKGROUND FACTS**

11. Petitioner worked as a special education teacher specializing in autism support at the Harrisburg School District from August 14, 2015, until she was terminated in October 2018 for an incident that occurred on September 13, 2018.

12. On September 13, 2018, Petitioner's autism support class was in physical education class when she was called to respond when one of her students became highly escalated. Petitioner implemented a therapeutic de-escalation strategy that she witnessed other teachers administer on students with similar behaviors.

13. All students with disabilities in the Commonwealth must have an Individualized Education Program. 34 CFR § 300.320; 22 Pa. Code § 14.131.

14. The Harrisburg School District previously approved an Individualized Education Program for another student with similar behaviors as the student in this matter that explicitly included the strategy utilized by Petitioner.

15. The de-escalation strategy involved a teacher walking up and down the hall and/or stairwell with the highly escalated student. The strategy seeks to (1)

release the student's excess energy; (2) add serotonin to the student's brain through movement; and (3) decrease brain stimulation by moving the child to a relatively isolated area.

16. Petitioner witnessed other teachers implement the strategy on another student.

17. Petitioner's actions were recorded on Harrisburg School District's video surveillance system.

18. Petitioner was well-aware that her actions were recorded and did not believe she was doing anything wrong.

19. A report of the incident was made to the administration of Harrisburg School District.

20. On September 14, 2018, the Harrisburg School District placed Petitioner on administrative leave while they investigated the incident.

### **Report to Children and Youth**

21. On or about September 14, 2018, the Harrisburg School District submitted a report of Petitioner's September 13, 2018, conduct to DHS as a possible incident of child abuse.

22. DHS referred the report to Dauphin County Social Services for Children and Youth ("the County Agency") for an investigation.

23. On or about September 28, 2018, the County Agency opened its investigation into Petitioner's September 13, 2018 conduct.

24. Pursuant to the CPSL, all investigations into suspected child abuse must be completed by a county children and youth agency within 60 days of receiving a report of suspected child abuse from DHS. 23 Pa. C.S. § 6368(j)(1).

25. On Tuesday, November 20, 2018, 53 days after opening its investigation of suspected child abuse, and 67 days after the Harrisburg School District submitted a report of the incident to DHS, Petitioner received a phone call from an investigator with the County Agency asking Petitioner to meet for an investigatory interview.

26. Due to office closings for the Thanksgiving holiday between November 22 and November 25, 2018, the meeting between the County Agency and Petitioner was scheduled for 9:00 am on Monday, November 26, 2018.

27. November 26, 2018 was the 59<sup>th</sup> day since the County Agency opened its report and the 73<sup>rd</sup> day after the report was made to DHS.

28. The investigator with the County Agency interviewed Petitioner with counsel present on November 26, 2018, for approximately 90 minutes.

29. The Solicitor for the county agency informed Petitioner's counsel that Petitioner would be listed in an indicated report of child abuse. The Solicitor also informed counsel that the County Agency concluded its investigation and made its



final determination that Petitioner was a perpetrator in an indicated report of child abuse the week prior to Petitioner's November 26, 2018 interview.

30. It appears that Petitioner's November 26, 2018 interview was nothing more than a performance to seemingly satisfy the requirements of the CPSL.

31. The County Agency made its findings based upon incorrect information and without considering the investigator's interview with Petitioner.

### **ChildLine Registry**

32. DHS maintains a statewide database of protective services called the ChildLine.

33. As of November 30, 2018, Petitioner was listed on the statewide ChildLine database as a perpetrator in an indicated report of child abuse. (Ex. A.)

34. The ChildLine database includes various allegations that are harmful to Petitioner's reputation. See G.V. v. Dep't of Pub. Welfare, 625 Pa. 280, 294, 91 A.3d 667, 675 (2014) (Saylor, concurring) ("[T]here is substantial stigma associated with inclusion of one's name in a child-abuse registry..").

35. Petitioner was afforded no opportunity to be heard by a neutral adjudicator prior to being listed as a perpetrator in an indicated report of child abuse on the ChildLine database.

43. Even though no charges were formally docketed at the time, the Bureau of Hearings and Appeals issued the stay on the morning of the hearing. Petitioner was in the parking lot outside the hearing room when she was informed that she was stripped of her right to a hearing.

### **Teacher's Certification Suspension**

44. On April 10, 2019, while Petitioner was attempting to challenge the indicated report of child abuse, PDE informed her that it had received an Educator Misconduct Complaint related to the September 13, 2018 incident.

45. On or about December 3, 2019, PDE filed Notice of Charges against Petitioner, seeking an indefinite suspension of her certification on the basis that she was charged with a crime set forth in Section 111(e) of the Pennsylvania Public School Code ("School Code"), 24 P.S. § 1-111(e), as required by Section 9b of the Educator Discipline Act, 24 P.S. § 2070.9b(a)(1).

46. Petitioner did not oppose the suspension or request a hearing as the only issue in the hearing would be to determine whether she was charged with a crime set forth in Section 111(e) of the School Code. There was no dispute of this fact.

47. On January 17, 2020, the PSPC suspended Petitioner's educator certificate, stripping her of her right to work in her chosen profession. (Ex. D.)

48. Petitioner's certificate from PDE expired on February 1, 2020. She was unable to receive an Instructional Level II permanent certificate from PDE.

### **ARD**

49. In December 2019, the District Attorney for Dauphin County referred Petitioner's case to the county's Accelerated Rehabilitative Disposition (ARD) Program.

50. From December 2019 to June 2020, Petitioner's counsel attempted to negotiate the terms of Petitioner's ARD.

51. Petitioner did not want to surrender her teaching certificate as part of the ARD program and requested that the certificate issue be addressed by PDE and the PSPC. The District Attorney's office denied this request. The District Attorney's office informed Petitioner that if she did not sign an affidavit of surrender of her certificate, the Commonwealth will take her out of consideration for the ARD program.

52. Petitioner decided to enter the ARD program because she did not want to face the uncertainty and prejudices that come with a criminal jury trial.

53. Petitioner agreed to surrender her teaching certificate because the immediate outcome of surrender would be the same as acceptance into an ARD program.

54. On June 26, 2020, Petitioner entered the ARD program. The Dauphin County Court of Common Pleas approved ARD without taking any testimony or fact-finding.

### **Founded Report**

55. Pursuant to Section 6303 of the CPSL, 23 Pa. C.S. § 6303, a report of child abuse on the Child Line database automatically becomes a founder report when “[t]here has been an acceptance into an accelerated rehabilitative disposition program and the reason for the acceptance involves the same factual circumstances involved in the allegation of child abuse.”

56. Because Petitioner entered the Dauphin County ARD program related to charges that involve the same factual circumstances involved in the allegation of child abuse in the ChildLine registry, Petitioner will imminently be listed as a perpetrator in a founded report of child abuse.

### **Harm to Petitioner**

57. Petitioner’s reputation and employment opportunities are severely injured by the above-mentioned facts.

58. Being listed on the ChildLine database as a perpetrator in either a founded or indicated report of child abuse essentially ends the career of public school teachers.

59. While Petitioner was listed on the ChildLine database as a perpetrator in an indicated report of child abuse, she faced reputational harm and severe barriers to pursuing her chosen profession or volunteering in any position where Petitioner may have contact with children.

60. For as long as Petitioner is listed on the ChildLine database as a perpetrator in a founded report of child abuse, she faces reputational harm and a bar on pursuing her chosen profession or any other profession having direct contact with children. (See 23 Pa. C.S. § 6344(c) (barring employment in any position involving direct contact with children when “the applicant is named in the Statewide database as the perpetrator of a founded report committed within the five-year period immediately preceding verification pursuant to this section”).)

#### **IV. CAUSES OF ACTION**

##### **COUNT I**

##### **ACTION FOR DECLARATORY AND INJUNCTIVE RELIEF: VIOLATION OF PROCEDURAL DUE PROCESS UNDER THE PENNSYLVANIA CONSTITUTION (Petitioner v. DHS)**

61. All preceding paragraphs are incorporated as if fully set forth herein.

62. Reputation is a fundamental right protected by Article I of the Pennsylvania Constitution. Pa. Const. art. I, §1.

63. The Pennsylvania Constitution establishes reputation as one of the fundamental rights that cannot be abridged without compliance with state constitutional standards of due process.

64. DHS entered Petitioner's name on the ChildLine database as a perpetrator in an indicated report of child abuse without providing Petitioner adequate pre-deprivation due process.

65. Due process entitles Petitioner to notice and a meaningful opportunity to be heard prior to being listed on the ChildLine database as a perpetrator in an indicated report of child abuse.

66. The procedures employed by government actors pursuant to the CPSL pose a high risk of erroneous deprivation of individual rights.

67. Alternative procedures that could prevent constitutional deprivations are readily available at a low cost.

68. As a direct and proximate result of DHS' failure to provide Petitioner with adequate pre-deprivation due process, Petitioner suffered serious injury to her reputation and loss of employment opportunities.

69. Under no set of facts would the Pennsylvania Constitution permit an individual to be listed as a perpetrator in an indicated report of child abuse on the ChildLine registry without DHS providing the individual with notice and a meaningful opportunity to be heard prior to being listed as a perpetrator.

70. Petitioner lacks an adequate remedy at law.

**WHEREFORE**, Petitioner prays upon this Court to issue an order providing the following relief:

- Declare that the Section 6368 of the CPSL, 23 Pa. C.S. § 6368, is constitutionally deficient under the Pennsylvania Constitution on its face insofar as the CPSL provides no pre-deprivation due process to individuals listed on the ChildLine database as perpetrators of an indicated report of child abuse;
- Declare that the Section 6368 of the CPSL, 23 Pa. C.S. § 6368, is constitutionally deficient under the Pennsylvania Constitution as applied to Petitioner insofar as Petitioner was provided with no pre-deprivation due process prior to being listed on the ChildLine database as a perpetrator in an indicated report of child abuse;
- Enjoin DHS from listing Petitioner or any other individual as a perpetrator in an indicated report of child abuse unless the individual is first provided notice and a meaningful opportunity to be heard at a meaningful time; and
- Grant any other relief the Court deems proper and equitable.

## **COUNT II**

### **ACTION PURSUANT TO 42 U.S.C. § 1983: VIOLATION OF PROCEDURAL DUE PROCESS UNDER THE UNITED STATES CONSTITUTION (Petitioner Against Respondent Miller)**

71. All preceding paragraphs are incorporated as if fully set forth herein.

72. Reputation is protected by the due process clause of the Fourteenth Amendment to the United States Constitution, U.S. Const. amend. XIV, when the

infringement of the right to reputation is “accompanie[d by] the alteration or extinguishment of a right or status previously recognized by state law.” Watson v. Sec’y Pa. Dep’t of Corr., 436 F. App’x 131, 134 (3d Cir. 2011).

73. At all times relevant Respondent Miller acted under the color of state law.

74. Respondent Miller, in her official capacity, is charged with enforcing the CPSL.

75. Petitioner’s name was entered on the ChildLine database as a perpetrator in an indicated report of child abuse without providing Petitioner adequate pre-deprivation due process.

76. The report on the ChildLine database made it impossible for Petitioner to receive her Instructional Level II permanent certification.

77. Due process entitles Petitioner to notice and a meaningful opportunity to be heard prior to being listed on the ChildLine database as a perpetrator in an indicated report of child abuse.

78. The procedures employed by government actors pursuant to the CPSL pose a high risk of erroneous deprivation of individual rights.

79. Alternative procedures that could prevent constitutional deprivations are readily available at a low cost.



80. As a direct and proximate result of Respondent Miller's failure to provide Petitioner with adequate pre-deprivation due process, Petitioner suffered serious injury to her reputation and loss of employment opportunities.

81. Under no set of facts would the Pennsylvania Constitution permit an individual to be listed as a perpetrator in an indicated report of child abuse on the ChildLine registry without the Secretary of DHS providing the individual with notice and a meaningful opportunity to be heard prior to being listed.

82. Petitioner lacks an adequate remedy at law.

**WHEREFORE**, Petitioner prays upon this Court to issue an order providing the following relief:

- Declare that the Section 6368 of the CPSL, 23 Pa. C.S. § 6368, is constitutionally deficient under the United States Constitution on its face insofar as the CPSL provides no pre-deprivation due process to individuals listed on the ChildLine database as perpetrators of an indicated report of child abuse;
- Declare that the Section 6368 of the CPSL, 23 Pa. C.S. § 6368, is constitutionally deficient under the United States Constitution as applied to Petitioner insofar as Petitioner was provided with no pre-deprivation due process prior to being listed on the ChildLine database as a perpetrator in an indicated report of child abuse;

- Enjoin Respondent from listing Petitioner or any individual as a perpetrator in an indicated report of child abuse unless the individual is first provided notice and a meaningful opportunity to be heard at a meaningful time;
- Award Petitioner reasonable attorney's fees pursuant to 42 U.S. § 1988; and
- Grant any other relief the Court deems proper and equitable.

**COUNT III**  
**ACTION FOR DECLARATORY AND INJUNCTIVE RELIEF:**  
**VIOLATION OF PROCEDURAL DUE PROCESS**  
**UNDER THE PENNSYLVANIA CONSTITUTION**  
**(Petitioner v. DHS)**

83. All preceding paragraphs are incorporated as if fully set forth herein.

84. Reputation is a fundamental right protected by Article I of the Pennsylvania Constitution. Pa. Const. art. I, §1.

85. The right to pursue one's lawful occupation is a right protected by Article I of the Pennsylvania Constitution. Pa. Const. art. I, § 1.

86. The Pennsylvania Constitution establishes reputation and the right to pursue one's lawful occupation as rights that cannot be abridged without compliance with state constitutional standards of due process.

87. DHS will imminently enter Petitioner's name on the ChildLine database as a perpetrator in a founded report of child abuse solely on the basis of her

acceptance into an ARD program involving the same factual circumstances underlying a report of child abuse to the ChildLine database.

88. DHS failed to provide Petitioner with constitutionally required pre-deprivation due process.

89. Under no set of facts could the definition of a founded report in Section 6303 of the CPSL be constitutional as no individual that enters into an ARD program related to circumstances involved in a report of child abuse is afforded an adjudication prior to being named as a perpetrator in the founded report of child abuse.

90. The sole adjudication authorized by the CPSL associated with individuals listed on a founded report of child abuse is to determine whether the facts underlying the ARD are the same as those in the Childline report. The CPSL provides for no adjudication on whether the individual committed the acts alleged in the Childline report, or whether the alleged acts amount to child abuse under the CPSL.

91. ARD is not a criminal conviction. Com. v. Bowser, 624 A.2d 125, 135 (Pa. Super. 1993). ARD puts a criminal proceeding in abeyance and completion of an ARD program results in dismissal of charges. ARD involves no factual findings by a judge or jury. J.F. v. Dep't of Human Servs., 204 A.3d 1042, 1049 (Pa. Cmwlth. 2019).

92. The procedures employed by government actors pursuant to the CPSL pose a high risk of erroneous deprivation of individual rights.

93. Alternative procedures that could prevent constitutional deprivations are readily available at a low cost.

94. As a direct and proximate result of the actions alleged herein, Petitioner has lost the ability to work in her chosen profession and suffered severe reputational harm.

95. A post-deprivation remedy, if one is eventually afforded to Petitioner,<sup>2</sup> is insufficient.

96. Petitioner lacks an adequate remedy at law.

**WHEREFORE**, Petitioner prays upon this Court to issue an order providing the following relief:

- Declare that the CPSL is constitutionally deficient under the Pennsylvania Constitution on its face insofar as the CPSL provides no due process to individuals listed on the ChildLine database as perpetrators of a founded report of child abuse when the basis of the founded report is acceptance into an ARD program;

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<sup>2</sup> Whether and what type of post-deprivation remedy is required by the Pennsylvania Administrative Code when a founded report is derived from acceptance in an ARD program is pending before the Supreme Court. See J.F. v. Department of Human Services, 72 MAP 2019 (oral argument conducted May 2020).

- Declare that the CSPL is constitutionally deficient under the Pennsylvania Constitution as applied to Petitioner insofar as Petitioner was provided with no pre-deprivation due process prior to being listed on the ChildLine database as a perpetrator in a founded report of child abuse;
- Enjoin DHS from listing any individual as a perpetrator in a founded report of child abuse unless the individual is first provided notice and a meaningful opportunity to be heard at a meaningful time; and
- Grant any other relief the Court deems proper and equitable.

**COUNT IV**  
**ACTION PURSUANT TO 42 U.S.C. § 1983: VIOLATION OF**  
**PROCEDURAL DUE PROCESS UNDER THE UNITED STATES**  
**CONSTITUTION**  
**(Petitioner Against Respondent Miller)**

97. All preceding paragraphs are incorporated as if fully set forth herein.

98. Reputation is protected by the due process clause of the Fourteenth Amendment to the United States Constitution, U.S. Const. amend. XIV, when the infringement of the right to reputation is “accompanie[d by] the alteration or extinguishment of a right or status previously recognized by state law.” Watson v. Sec’y Pa. Dep’t of Corr., 436 F. App’x 131, 134 (3d Cir. 2011).

99. At all times relevant, Respondent Miller acted under the color of state law.

100. Respondent Miller, in her official capacity, is charged with enforcing the CPSL.

101. Petitioner's name will imminently be entered on the ChildLine database as a perpetrator in a founded report of child abuse without providing Petitioner adequate pre-deprivation due process.

102. Upon being listed as a perpetrator in a founded report of child abuse, Petitioner will be barred from pursuing her chosen profession. See 24 P.S. § 2070.9d(a)(1).

103. Respondent Miller failed to provide Petitioner with constitutionally required pre-deprivation due process.

104. Under no set of facts could the definition of a founded report in Section 6303 of the CPSL be constitutional as no individual that enters into an ARD program related to circumstances involved in a report of child abuse is afforded an adjudication prior to being named as a perpetrator in the founded report of child abuse.

105. The sole adjudication authorized by the CPSL associated with individuals listed on a founded report of child abuse is to determine whether the facts underlying the ARD are the same as those in the Childline report. The CPSL provides for no adjudication on whether the individual committed the acts alleged in

the Childline report, or whether the alleged acts amount to child abuse under the CPSL.

106. ARD is not a criminal conviction. Com. v. Bowser, 624 A.2d 125, 135 (Pa. Super. 1993). ARD puts a criminal proceeding in abeyance and completion of an ARD program results in dismissal of charges. ARD involves no factual findings by a judge or jury. J.F. v. Dep't of Human Servs., 204 A.3d 1042, 1049 (Pa. Cmwlth. 2019).

107. A post-deprivation remedy, if one is afforded to Petitioner, is insufficient.

108. The procedures employed by government actors pursuant to the CPSL pose a high risk of erroneous deprivation of individual rights.

109. Alternative procedures that could prevent constitutional deprivations are readily available at a low cost.

110. As a direct and proximate result of the actions alleged herein, Petitioner lost the ability to work in her chosen profession and suffers severe reputational harm.

111. Petitioner lacks an adequate remedy at law.

**WHEREFORE**, Petitioner prays upon this Court to issue an order providing the following relief:

- Declare that the CPSL is constitutionally deficient under the United States Constitution as applied to Petitioner insofar as Petitioner was provided

with no pre-deprivation due process prior to being listed on the ChildLine database as a perpetrator in a founded report of child abuse;

- Award Petitioner reasonable attorney's fees pursuant to 42 U.S. § 1988; and
- Grant any other relief the Court deems proper and equitable.

**COUNT V  
ACTION FOR MANDAMUS  
(Petitioner v. DHS)**

112. All preceding paragraphs are incorporated as if fully set forth herein.

113. By listing Petitioner on the Childline database as a perpetrator of child abuse without first conducting a fact-finding hearing, Respondents DHS and Miller have deprived Petitioner of her constitutional rights without due process of law.

114. "The writ of mandamus exists to compel official performance of a ministerial act or mandatory duty." Fagen v. Smith, 41 A.3d 816, 818 (Pa. 2012).

115. Mandamus will not lie "to establish legal rights." Barge v. Pa. Bd. of Prob. & Parole, 39 A.3d 530, 545 (Pa. Cmwlth. 2012). Instead, mandamus is appropriate to "enforce those rights already existing beyond peradventure." Id.

116. "Mandamus will lie to compel action by an official where his refusal to act in the requested way stems from his erroneous interpretation of the law." Fagen, 41 A.3d at 818.

117. Respondents have a mandatory duty to refrain from depriving Petitioner of her constitutional rights.



118. Respondents lack the discretion to continue to deprive Petitioner of her constitutional right to reputation and the right to pursue her chosen occupation without due process of law.

**WHEREFORE**, Petitioner prays upon this Court to issue a writ of mandamus ordering Respondents to remove the report related to Petitioner from the Childline database.

**COUNT VI**  
**ACTION FOR DECLARATORY RELIEF:**  
**VIOLATION OF PROCEDURAL DUE PROCESS**  
**UNDER THE PENNSYLVANIA CONSTITUTION**  
**(Petitioner v. PSPC)**

119. All preceding paragraphs are incorporated as if fully set forth herein.

120. The right to pursue one's lawful occupation is a right protected by Article I of the Pennsylvania Constitution. Pa. Const. art. I, § 1.

121. The Pennsylvania Constitution establishes the right to pursue one's lawful occupation as a right that cannot be abridged without compliance with state constitutional standards of due process.

122. Section 9d(a)(1) of the Educator Discipline Act is unconstitutional as applied to Petitioner.

123. ARD is not a criminal conviction. Com. v. Bowser, 624 A.2d 125, 135 (Pa. Super. 1993). ARD puts a criminal proceeding in abeyance and completion of an ARD program results in dismissal of charges. ARD involves no factual findings

by a judge or jury. J.F. v. Dep't of Human Servs., 204 A.3d 1042, 1049 (Pa. Cmwlth. 2019).

124. Petitioner surrendered her teacher certificate as a condition of ARD because she knew that Section 9d(a)(1) of the Educator Discipline Act required PSPC to direct PDE to revoke her certificate without a hearing on whether Petitioner committed the acts alleged, or whether Petitioner's actions warrant discipline under the Educator Discipline Act. As such, surrender of her certificate had no immediate practical impact. The sole result of surrender was accelerating the result already prescribed by the General Assembly.

125. Petitioner has a substantial, direct, and immediate interest obtaining a declaration that Section 9d(a)(1) of the Educator Discipline Act is unconstitutional.

126. Pursuant to Section 16 of the Educator Discipline Act, Petitioner may seek reinstatement of her certificate.

127. The PSPC will reinstate a certificate if the PSPC determines it would be just and proper.

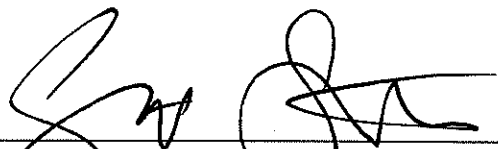
128. A declaration that Section 9d(a)(1) of the Educator Discipline Act is unconstitutional would weigh heavily in favor of reinstatement.

**WHEREFORE**, Petitioner prays upon this Court to issue an order providing the following relief:

- Declare that Section 9d(a)(1) of the Educator Discipline Act, 24 P.S. § 2070.9d(a)(1), is constitutionally deficient under the Pennsylvania Constitution as applied to Petitioner; and
- Grant any other relief the Court deems proper and equitable.

Respectfully submitted,

Dated: October 15, 2020



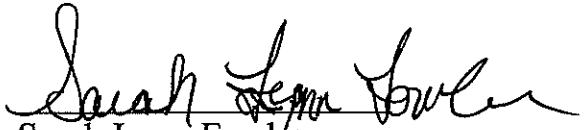
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*Counsel for the Petitioner*

**VERIFICATION**

I, Sarah Lynn Fowler, hereby certify that the facts set forth in this Petition for Review are true and correct to the best of my knowledge, information and belief. I understand that false statements made therein are made subject to the penalties of 18 Pa. C.S. § 4904.

Date: 10/15/2020

By:   
Sarah Lynn Fowler

# EXHIBIT A



**IMPORTANT INFORMATION - READ CAREFULLY**

SARAH FOWLER  
409 SHELLYS LANE  
ETTERS, PA 17319

Child: [REDACTED]  
Report No: 8310040  
Status: INDICATED  
Investigating Agency: Dauphin  
Mailing Date: 11/30/2018

**YOU ARE LISTED IN THE STATEWIDE DATABASE AS A PERPETRATOR IN AN INDICATED REPORT OF CHILD ABUSE.**

An Indicated report means that a county children and youth agency or the Pennsylvania Department of Human Services has made a determination that you committed abuse. Your name will remain on file in the statewide database indefinitely if your social security number or date of birth is known.

As a perpetrator in an indicated report, you will probably be prevented from working in an organization serving children or a public or private school or from becoming a foster care or adoptive parent. As a perpetrator, you could also be prevented from volunteering in an organization serving children or public or private school or from obtaining certain educational degrees or certificates. Other volunteer and employment opportunities may also be negatively affected.

A copy of the report of abuse is enclosed. Please read the report carefully.

**If you disagree with the determination that you have committed abuse, and you want your name removed from the Statewide Database, you have two options.**

- (1) You must appeal to the Department of Human Services **within 90 days of the mailing date listed at the top of this notice.**

To appeal you can use the enclosed form and check off the first box on the form. You may also write a letter requesting the appeal.

**OR**

- (2) You have a right to a hearing now. You can skip the appeal described above and ask the Bureau of Hearings and Appeals for that hearing. This request must be made **within 90 days of the mailing date listed at the top of this notice.**

To ask for a hearing, you can use the enclosed form and check off the second box on the form. You may also write a letter requesting the hearing.

**IN EITHER CASE, YOUR REQUEST MUST BE POSTMARKED WITHIN 90 DAYS FROM THE MAILING DATE AT THE TOP OF THIS NOTICE.**

**WARNING: IF YOUR REQUEST FOR AN APPEAL OR A HEARING IS LATE, YOUR NAME WILL STAY ON THE STATEWIDE DATABASE, FOREVER, UNLESS.**

**(1) The department does not have your date of birth or social security number, in which case your name will be removed when the child turns 23 years of age.**

**OR**

**(2) You were under 18 years of age when the abuse was committed, you have not been named as a perpetrator of abuse again, the abuse did not involve a deadly weapon, and you are not required to register or have completed the requirement to register as a sexual offender; In which case your name will be removed when you turn 21 years of age or 5 years have passed, whichever is later.**

**OR**

**(3) You can show good cause why your name should be removed, such as new information shows that the report is not accurate, or is incorrect under the law, or that you are no longer a risk to children.**

**If there is a court decision that changes the status of your report to founded, you will need to provide a court order that the court decision has been reversed or vacated.**

**THIS IS A VERY SERIOUS MATTER.**

You may wish to contact a lawyer to represent you. If you cannot afford a lawyer, call Pennsylvania Legal Aid Network at 1-800-322-7572. If you do not understand this notice, you can also call the Department of Human Services at 717-783-1964.

You can ask for services to prevent child abuse or neglect in the future. To ask for services, contact the county child welfare agency in the county where you live.

**RETURN YOUR REQUEST FOR A REVIEW OR A HEARING  
AND ANY LETTERS TO:**

**SECRETARY OF HUMAN SERVICES  
ChildLine and Abuse Registry  
ATTENTION: CHILD ABUSE APPEALS  
P.O. BOX 2675  
HARRISBURG, PA 17105-2675**

Q-IND/P

**REQUEST FOR REVIEW OR HEARING**

Fill out this form if you disagree with the report listing you as a perpetrator of child abuse and want the report to be reviewed.

Your Name: \_\_\_\_\_

Your Address: \_\_\_\_\_

Child's Name and Date of Birth: \_\_\_\_\_

ChildLine Report No.: \_\_\_\_\_

Your Phone Number: \_\_\_\_\_

Please check ONE of the following:

☐ I want the Department of Human Services to review the findings against me before I ask for a hearing. Include the reasons why you disagree with the report or why you think the findings in the report are wrong in the space below. Include additional sheets of paper if you need more space.

☐ I want to skip the review and go directly to a hearing.

SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_

**WHEN YOU MAIL THIS FORM, IT MUST BE POSTMARKED WITHIN 90 DAYS OF THE MAILING DATE ON THE ENCLOSED NOTICE.**

**IF THE FORM IS NOT POSTMARKED WITHIN 90 DAYS, YOU WILL LOSE THE RIGHT TO A REVIEW OR HEARING.**

**KEEP A COPY OF THIS FORM FOR YOUR RECORDS.**

Send this form to: Secretary of Human Services  
ChildLine and Abuse Registry  
Attention: Child Abuse Appeals  
P.O. Box 2675  
Harrisburg, PA 17105-2675



**INFORMACIÓN IMPORTANTE: LEER ATENTAMENTE**

SARAH FOWLER  
409 SHELLYS LANE  
ETTERS, PA 17319

Niño: [REDACTED]  
Informe n.º: 8310040  
Situación: INDICADO  
Agencia de Investigación: Dauphin  
Fecha de envío: 11/30/2018

**USTED FIGURA EN LA BASE DE DATOS ESTATAL COMO AUTOR MATERIAL EN UN REPORTE INDICADO DE ABUSO INFANTIL.**

Un reporte indicado implica que una agencia del condado para la protección de niños y jóvenes o el Departamento de Servicios Humanos de Pensilvania ha comprobado que usted cometió abuso. Su nombre permanecerá en el expediente de la base de datos estatal por tiempo indefinido si se conoce su número de seguridad social o fecha de nacimiento.

Es probable que, al ser el autor material en un reporte indicado, no pueda trabajar en una organización que atiende niños ni en una escuela pública ni privada, ni tampoco pueda ser tutor ni padre adoptivo. Es posible que, al ser el autor material, tampoco pueda ser voluntario en una organización que atiende niños ni en una escuela pública ni privada, ni pueda obtener determinados títulos o certificados educativos. Es posible que otras oportunidades de empleo o voluntariado se vean afectadas negativamente.

Se adjunta una copia del reporte de abuso. Lea el reporte atentamente.

**Si usted no está de acuerdo con la determinación de que usted ha cometido abuso y desea que se elimine su nombre de la base de datos estatal, tiene dos opciones.**

- (1) Debe apelar al Departamento de Servicios Humanos en un plazo de 90 días a partir de la fecha de envío que figura al comienzo de este aviso.**

Para apelar, puede utilizar el formulario adjunto y marcar el primer casillero en el formulario. También puede escribir una carta en la que solicite la apelación.

**O**

- (2) Ahora tiene derecho a una audiencia. Puede omitir la apelación descrita anteriormente y solicitar esa audiencia a la Oficina de Audiencias y Apelaciones. Debe presentar esta solicitud en un plazo de 90 días a partir de la fecha de envío que figura al comienzo de este aviso.**

Para solicitar una audiencia, puede utilizar el formulario adjunto y marcar el segundo casillero en el formulario. También puede escribir una carta en la que solicite la audiencia.

CHILD PROTECTIVE SERVICES INVESTIGATION REPORT (TITLE 23 PA. C.S.A CHAPTER 63)			
I. IDENTIFYING INFORMATION			
DATE OF INCIDENT BEGIN 9/14/2018	REFERRAL TYPE CPS	REFERRAL RECEIVED DATE 9/28/2018 4:16:00 PM	REFERRAL ID 8310040
DATE OF INCIDENT END 9/14/2018			
1. ALLEGED VICTIM/SUBJECT CHILD			
NAME [REDACTED]	DATE OF BIRTH	GENDER Male	
ADDRESS	COUNTY	SSN	
2. PARENTS/LEGAL GUARDIAN			
NAME [REDACTED]	RELATIONSHIP TO CHILD [REDACTED]	DATE OF BIRTH	GENDER Female
ADDRESS	COUNTY	SSN	
NAME [REDACTED]	RELATIONSHIP TO CHILD [REDACTED]	DATE OF BIRTH	GENDER Male
ADDRESS	COUNTY	SSN	
3. ALLEGED PERPETRATOR/PERSON RESPONSIBLE			
NAME [REDACTED]	RELATIONSHIP TO CHILD [REDACTED]	DATE OF BIRTH	GENDER [REDACTED]
ADDRESS	COUNTY	SSN	
NAME Sarah Fowler	RELATIONSHIP TO CHILD Teacher	DATE OF BIRTH	GENDER Female
ADDRESS	COUNTY	SSN	
4. FAMILY HOUSEHOLD COMPOSITION			
5. THE INITIAL REFERRAL SOURCE			
II. NATURE OF ABUSE/NEGLECT			
ALLEGED VICTIM/SUBJECT CHILD [REDACTED]	ALLEGED PERPETRATOR/RESPONSIBLE PERSON Sarah Fowler	CATEGORY OF ABUSE/NEGLECT Creating a Reasonable Likelihood of Bodily Injury to a Child Through Any Recent Act/Failure to Act	SUBCATEGORY OF ABUSE/NEGLECT Not Applicable
ALLEGATION OUTCOME Indicated	OUTCOME EXPLANATION Video footage of the incident was obtained showing the perpetrator forcing the child to walk up and down the stairs repeatedly.		
ALLEGED VICTIM/SUBJECT CHILD [REDACTED]	ALLEGED PERPETRATOR/RESPONSIBLE PERSON [REDACTED]	CATEGORY OF ABUSE/NEGLECT Creating a Reasonable Likelihood of Bodily Injury to a Child Through Any Recent Act/Failure to Act	SUBCATEGORY OF ABUSE/NEGLECT Not Applicable

CHILD PROTECTIVE SERVICES INVESTIGATION REPORT (TITLE 23 PA. C.S.A CHAPTER 63)			
ALLEGATION OUTCOME Unfounded		OUTCOME EXPLANATION Incident did not create the reasonable likelihood of bodily injury as the alleged perpetrator was not present the entire time.	
III. CPS ACTIONS			
WAS CHILD ALLEGEDLY ABUSED WHILE IN A "CHILD CARE SERVICE" (As defined by CPSL)?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	
WAS CHILD REMOVED FROM ALLEGED ABUSIVE SETTING?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	
WERE LAW ENFORCEMENT OFFICIALS NOTIFIED OF THE REPORT?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	
WAS THERE A RELIGIOUS BASIS FOR THE CHILD'S CONDITION?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	
DID THE CHILD DIE AS A RESULT OF THIS INCIDENT OF ABUSE/NEGLECT?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	
SERVICES PLANNED OR PROVIDED Mental Health Services			
IV. INVESTIGATION/ASSESSMENT STATUS			
INVESTIGATION/ASSESSMENT DECISION Indicated			
PLEASE EXPLAIN IN DETAIL THE BASIS FOR THE INVESTIGATION OUTCOME AND CASE OUTCOME SELECTED AND SPECIFY CRIMINAL ACTION <p>forensically interviewed but was unable to provide a statement due to his disability. Alleged perpetrator [REDACTED] was interviewed and denied the allegations. It was determined throughout the investigation that although the alleged perpetrator was present, she was not present the entire incident. Thus the allegations are unable to be substantiated. This case will be made unfounded per CPSL for alleged perpetrator [REDACTED] Perpetrator (SF) was interviewed and admitted to making the child walk up and down the stairs several times through out the day as a form of getting a child to calm down. Video footage was obtained of the incident. The allegations are able to be substantiated. This case will be made indicated per CPSL for perpetrator (SF).</p>			
V. NEED FOR PROTECTIVE SERVICES			
Not Applicable			
COUNTY WHERE ABUSE OCCURRED Dauphin		INVESTIGATING COUNTY/REGION Dauphin	
INVESTIGATING WORKER NAME Alshah Calloway		SUPERVISOR NAME Matthew Wallace	DATE OF APPROVAL
ADMINISTRATOR/DESIGNEE	DATE OF APPROVAL	LEGAL REVIEW	DATE OF REVIEW
INITIAL STATUS DETERMINATION DATE 11/26/2018			

# EXHIBIT B

JUL 25 2019



DEPARTMENT OF HUMAN SERVICES  
SOCIAL SERVICES FOR CHILDREN AND YOUTH

**BOARD OF COMMISSIONERS**

JEFF HASTE, CHAIRMAN  
MIKE PRIES, VICE CHAIRMAN  
GEORGE P. HARTWICK III, SECRETARY

CHIEF CLERK / CHIEF OF STAFF  
CHAD SAYLOR

**CHILDREN & YOUTH ADMINISTRATOR**  
MARISA MCCLELLAN, ESQUIRE

**ASSISTANT ADMINISTRATOR**  
RICHARD VUKMANIC, M.S.W.

**HUMAN SERVICES DIRECTOR**  
RANDIE YEAGER

**HUMAN SERVICES SOLICITOR**  
FREDRICK W. LIGHTY, ESQUIRE

**DIRECTORS OF SOCIAL SERVICES**  
CURRIN HAINES-YODER, M.S.W.  
MYLAN N. MARTIN, M.S.W.  
KELLY Y. ROMBERGER  
MICHELE M. RUSH  
LISA WHEELER, B.S.W.

**DIRECTOR OF FISCAL OPERATIONS**  
JENNIFER M. CAPITANI

July 22, 2019

Sarah Fowler  
409 Shellys Lane  
Etters, PA 17319

RE: S.F. In re: E.M.  
BHA Docket No.: 021-19-0447  
Report No.: 8310040  
Child Abuse Expunction

Ms. Fowler:

Enclosed please find a Motion for Stay prepared in connection with the above-referenced appeal.

Sincerely,



Adrian Piechowicz  
SWAN LSI Paralegal, Dauphin County  
Social Services for Children and Youth

**Enclosure**

Cc: John M. Arose, Esquire, Attorney for Appellant  
Tilman P. Larson, Esquire, Assistant Solicitor, Dauphin County Social Services for Children & Youth  
Matt Wallace, Caseworker Supervisor, Dauphin County Social Services for Children & Youth

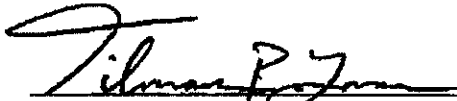
**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF HUMAN SERVICES  
BUREAU OF HEARINGS AND APPEALS**

**IN THE APPEAL OF:** S.F. In re: E.M.  
BHA Docket No. 021-19-0447  
ChildLine Report No. 8310040  
Child Abuse Expunction

**MOTION FOR STAY**

- I. Submitted for: Dauphin County Social Services for Children and Youth ("Agency").
- II. Date and location of hearing: July 23, 2019, at 9:15 A.M., Bureau of Hearings and Appeals.
- III. Reason why stay should be granted:  
There are criminal proceedings pending which involve the same factual circumstances as the above-referenced appeal. (See: Appellant's Police Criminal Complaint attached hereto as Exhibit "A".)
- IV. Statutory, regulatory and decisional law authority supporting this motion:  
23 Pa.C.S. 6341(d) – "Stay of proceedings. – Any administrative appeal proceeding pursuant to subsection (b) shall be automatically stayed upon notice to the department by either of the parties when there is a pending criminal proceeding or a dependency or delinquency proceeding pursuant to 42 Pa.C.S. Ch. 63 (relating to juvenile matters), including any appeal thereof, involving the same factual circumstances as the administrative appeal."
- V. Averment of concurrence or opposition of the parties:  
On July 22, 2019, the Agency contacted the appellant's attorney, John M. Arose, Esquire, to inquire about his client's position on this Motion for Stay. Mr. Arose informed me that he opposes this Motion for Stay on behalf of his client.

Date: July 22, 2019

  
Tilman P. Larson, Esquire  
Attorney ID No. 308943  
Solicitor, Dauphin County Social  
Services for Children and Youth  
1001 North Sixth Street  
Harrisburg, PA 17102  
Phone: (717) 780-7200  
Fax: (717) 525-9921

19 JUL 22 PM 4:25  
BUREAU OF HEARINGS AND APPEALS



**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF HUMAN SERVICES  
BUREAU OF HEARINGS AND APPEALS**

**IN THE APPEAL OF:**      **K.S. In re: J.R.**  
                                 **BHA Docket No.: 021-19-0524**  
                                 **Report No.: 8303369**  
                                 **Child Abuse Expunction**

**CERTIFICATE OF SERVICE**

I, Adrian Piechowicz, SWAN LSI Paralegal and employee of Dauphin County Social Services for Children and Youth, hereby certify that I have on this day served the foregoing Motion for Stay upon all parties of record in this proceeding in accordance with the requirements of §33.32 (relating to service by a participant).

**Twilah S. Shipley, Esquire  
Administrative Law Judge  
Department of Human Services  
Bureau of Hearings and Appeals  
2330 Vartan Way, 2<sup>nd</sup> Floor  
Harrisburg, PA 17110-9721**

**S.F., Appellant  
409 Shellys Lane  
Etters, PA 17319**

**John M. Arose, Esquire  
Attorney for Appellant  
218 Pine Street  
Harrisburg, PA 17101**

**Matthew Wallace, Caseworker Supervisor  
Dauphin County Social Services for Children and Youth  
1001 North Sixth Street  
Harrisburg, PA 17102**

**Date: July 22, 2019**

  
\_\_\_\_\_  
**Adrian Piechowicz, SWAN LSI Paralegal**

\* Summons \*

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: DAUPHINMagisterial District Number: 12-1-02  
MDJ: Hon. BARBARA PIANKA  
Address: 2967 A N 7TH ST  
HARRISBURG PA 17110

Telephone: 717-238-3388

POLICE CRIMINAL COMPLAINT  
COMMONWEALTH OF PENNSYLVANIA  
VS.DEFENDANT:  
SARAH(NAME and ADDRESS):  
FOWLERFirst Name  
408 SHELLYS LN  
ETTERS PA 17319

Middle Name

Last Name

Gen.

Telephone: Day: 570-816-6789 Eve: 570-816-6789

## NCIC Extradition Code Type

- ☐ 1-Felony Full ☐ 5-Felony Pend. ☒ C-Misdemeanor Surrounding States ☐ Distance: \_\_\_\_\_
- ☐ 2-Felony Ltd ☐ 6-Felony Pend. Extradition Determ. ☐ D-Misdemeanor No Extradition
- ☐ 3-Felony Surrounding States ☐ A-Misdemeanor Full ☐ E-Misdemeanor Pending
- ☐ 4-Felony No Ext. ☐ B-Misdemeanor Limited ☐ F-Misdemeanor Pen. Extra. Determ.

## DEFENDANT IDENTIFICATION INFORMATION

Docket Number Date Filed 7/18/2019 OTN/LiveScan Number Complaint/Incident Number 18-0915-114-001 Request Lab Services? YES ☐ NO ☒GENDER DOB 10/11/1989 POB Add'l DOB Co-Defendant(s) ☐  
☐ Male First Name Middle Name Last Name Gen.  
☒ Female AKARACE ☒ White ☐ Asian ☐ Black ☐ Native American ☐ UnknownETHNICITY ☐ Hispanic ☒ Non-Hispanic ☐ UnknownHAIR COLOR ☐ GRY (Gray) ☐ RED (Red/Aubn.) ☐ SDY (Sandy) ☐ BLU (Blue) ☐ PLE (Purple) ☐ BRO (Brown)  
☐ BLK (Black) ☐ ONG (Orange) ☐ WHI (White) ☒ XXX (Unk./Bald) ☐ GRN (Green) ☐ PPK (Pink)  
☒ BLN (Blonde / Strawberry)EYE COLOR ☐ BLK (Black) ☐ BLU (Blue) ☐ BRO (Brown) ☐ GRN (Green) ☐ GRY (Gray)  
☐ HAZ (Hazel) ☐ MAR (Maroon) ☐ PPK (Pink) ☐ MUL (Multicolored) ☒ XXX (Unknown)DNA ☐ YES ☒ NO DNA Location WEIGHT (lbs.)

FBI Number MNU Number FL HEIGHT in.

Defendant Fingerprinted: ☐ YES ☐ NO

Fingerprint Classification:

## DEFENDANT VEHICLE INFORMATION

Plate # State Hazmat ☐ Registration Sticker (MM/YY) Comm'l Veh. Ind. ☐ School Veh. ☐ Oth. NCIC Veh. Code Reg. same as Def. ☐

VIN Year Make Model Style Color

Office of the attorney for the Commonwealth ☐ Approved ☐ Disapproved because: \_\_\_\_\_

(The attorney for the Commonwealth may require that the complaint, arrest warrant affidavit, or both be approved by the attorney for the Commonwealth prior to filing. See Pa.R.Crim.P. 607).

(Name of the attorney for the Commonwealth)

(Signature of the attorney for the Commonwealth)

(Date)

J. JACOB PIERCE

(Name of the Affiant)

of City of Harrisburg, Bureau of Police

(Identify Department or Agency Represented and Political Subdivision)

3025-184  
(PSP/MP/OTC - Assigned Affiant ID Number & Badge #)  
PA0220200  
(Police Agency ORI Number)

do hereby state: (check appropriate box)

1. ☒ I accuse the above named defendant who lives at the address set forth above  
☐ I accuse the defendant whose name is unknown to me but who is described as

☐ I accuse the defendant whose name and popular designation or nickname are unknown to me and whom I have therefore designated as John Doe or Jane Doewith violating the penal laws of the Commonwealth of Pennsylvania at [ 301 ] HARRISBURG  
(Subdivision Code) (Place-Political Subdivision)  
1205 N 6TH ST, BEN FRANKLIN SCHOOL, HARRISBURG PA 17102 Zone 221 (endangering the welfare of children incident)  
in DAUPHIN County [ 22 ] on or about Thursday, 09/13/2018 10:00 to 09/14/2018 15:00  
(Offense Date)

EXHIBIT

A



**POLICE CRIMINAL COMPLAINT**

<b>Docket Number:</b>	<b>Date Filed:</b> 7/19/2019	<b>OTN/LiveScan Number</b>	<b>Complaint/Incident Number</b> 18-0915-114-001
<b>Defendant Name</b>	<b>First:</b> SARAH	<b>Middle:</b> L	<b>Last:</b> FOWLER

2. I ask that a warrant of arrest or a summons be issued and that the defendant be required to answer the charges I have made.
3. I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 Pa. C.S. §4904) relating to unsworn falsification to authorities.
4. This complaint consists of the preceding page(s), numbered 1 through 5.
5. I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

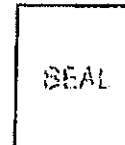
The acts committed by the accused, as listed and hereafter, were against the peace and dignity of the Commonwealth of Pennsylvania and were contrary to the Act(s) of the Assembly, or in violation of the statutes cited.

(Before a warrant of arrest can be issued, an affidavit of probable cause must be completed, sworn to before the issuing authority, and attached.)

(Date) 7/19 (Year) 2019 (Signature of Affiant) [Signature] #184

AND NOW, on this date 7/19/2019 I certify that the complaint has been properly completed and verified.

An affidavit of probable cause must be completed before a warrant can be issued.



12-1-02

(Magisterial District Court Number)

(Issuing Authority)

**POLICE CRIMINAL COMPLAINT**

Docket Number:	Date Filed: 7/18/2018	OTN/LiveScan Number	Complaint/Incident Number 18-0915-114-001
Defendant Name	First: SARAH	Middle: L	Last: FOWLER

The acts committed by the accused are described below with each Act of Assembly or statute allegedly violated, if appropriate. When there is more than one offense, each offense should be numbered chronologically.

(Set forth a brief summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. A citation to the statute(s) allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated.)

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older <u>0</u>
------------------	--	---	---	--

<input checked="" type="checkbox"/>	1	4304	A	of the	Title 18	1	M1		20
-------------------------------------	---	------	---	--------	----------	---	----	--	----

Lead?	Offense#	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code
	PennDOT Data (if applicable)	Accident Number		<input type="checkbox"/> Interstate		<input type="checkbox"/> Safety Zone		<input type="checkbox"/> Work Zone

Statute Description (Include the name of statute or ordinance):  
ENDANGERING WELFARE OF CHILDREN

Acts of the accused associated with this Offense:

**\*\*Summons\*\***

**PACC 4304A ENDANGERING WELFARE OF CHILDREN**

IN THAT, on or about said date, 9/13/2018, being a parent, guardian, or other person supervising the welfare of 6 year old EL, a child under the age of 18 years of age, The defendant, Sarah Fowler, did knowingly endanger the welfare of EL by violating a duty of care, protection or support, namely, by forcing EL to walk up and down a flight of stairs by the defendant or at the direction of the defendant which totaled over one hundred times in violation of Section 4304(a) of the PA Crimes Code. (18 P.S. 4304(a) - Misd.1st, a course of conduct of endangering the welfare of a child - Fel 3rd)

Please provide the following information for each co-defendant.



## Co-Defendant Data Sheet

Docket Number:	Date Filed: 7/19/2019	OTN/LiveScan Number	Complaint/Incident Number 18-0915-114-001
Defendant Name	First: SARAH	Middle: L	Last: FOWLER

**REQUEST FOR SUBPOENAS**  
**COMMONWEALTH OF PENNSYLVANIA**

**VS.**

**DEFENDANT:**

NAME and ADDRESS

SARAH L FOWLER  
409 SHELLYS LN  
ETTERS PA 17319

7/19/2019

I request the following be subpoenaed in the above case:

WALTER DOCKENS  
1516 SWATARA ST  
APT 2  
HARRISBURG PA 17104

717-686-7504

BRANDI MOORE  
430 BESSEMER ST  
STEELTON PA 17113

717-808-7122

BARBARA PIANKA 12-1-02  
City of Harrisburg, Bureau of Police  
Asst. D.A. Requested at Preliminary Hearing

JACOB PIERCE  
(Complainant/Officer)

**POLICE CRIMINAL COMPLAINT**

Docket Number:	Date Filed: 7/19/2019	OTN/LiveScan Number	Complaint/Incident Number 18-0915-114-001
Defendant Name	First: SARAH	Middle: L	Last: FOWLER

**AFFIDAVIT of PROBABLE CAUSE****\*\*Summons\*\***

On 9/15/2018, around 0924 hours, Harrisburg Police responded to Benjamin Franklin Elementary School located at 1201 North 6th Street for a report of child abuse/neglect to a minor.

During this time video surveillance was handed over to the police which showed the defendant, Sarah Folwer, marching and directing others to march six year old EL up and down a staircase over 100 times. These actions continued throughout the day on 9/13/2018. In the video EL was dragged, pulled, coerced and further forced to march up and down the staircase.

With the information compiled from the investigation, Sarah Fowler is being charged with one count of endangering the welfare of children due to her actions.

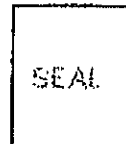
I, JACOB PIERCE, BEING DULY SWORN ACCORDING TO THE LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

I CERTIFY THAT THIS FILING COMPLIES WITH THE PROVISIONS OF THE CASE RECORDS PUBLIC ACCESS POLICY OF THE UNIFIED JUDICIAL SYSTEM OF PENNSYLVANIA THAT REQUIRE FILING CONFIDENTIAL INFORMATION AND DOCUMENTS DIFFERENTLY THAN NON-CONFIDENTIAL INFORMATION AND DOCUMENTS.

  
(Signature of Affiant)

Sworn to me and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
Date \_\_\_\_\_, Magisterial District Judge

My commission expires first Monday of January,



# EXHIBIT C

**Magisterial District Judge 12-1-02****DOCKET**

Docket Number: MJ-12102-CR-0000348-2019

**Criminal Docket**

Commonwealth of Pennsylvania  
v.  
Sarah L. Fowler

Page 1 of 2

**CASE INFORMATION**

<u>Judge Assigned:</u>	Barbara W. Pianka	<u>Issue Date:</u>	08/06/2019
<u>OTN:</u>	U 735706-6	<u>File Date:</u>	08/06/2019
<u>Arresting Agency:</u>	Harrisburg Police Dept	<u>Arrest Date:</u>	
<u>Complaint/Incident #:</u>	180915114001	<u>Disposition:</u>	
<u>County:</u>	Dauphin	<u>Disposition Date:</u>	
<u>Township:</u>	Harrisburg City	<u>Case Status:</u>	Active

**STATUS INFORMATION**

<u>Case Status</u>	<u>Status Date</u>	<u>Processing Status</u>
Active	08/06/2019	Awaiting Preliminary Hearing

**CALENDAR EVENTS**

<u>Case Calendar</u>	<u>Schedule</u>			<u>Judge Name</u>	<u>Schedule</u>
<u>Event Type</u>	<u>Start Date</u>	<u>Start Time</u>	<u>Room</u>		<u>Status</u>
Preliminary Hearing	08/28/2019	9:15 am		Barbara W. Pianka	Scheduled

**DEFENDANT INFORMATION**

<u>Name:</u>	Fowler, Sarah L.	<u>Sex:</u>	Female
<u>Date of Birth:</u>	10/11/1989	<u>Race:</u>	White
<u>Address(es):</u>			
<b>Home</b>			
Etters, PA 17319			

Advised of His Right to Apply for Assignment of Counsel?	No
Public Defender Requested by the Defendant?	No
Application Provided for Appointment of Public Defender?	No
Has the Defendant Been Fingerprinted?	No

**CASE PARTICIPANTS**

<u>Participant Type</u>	<u>Participant Name</u>
Defendant	Fowler, Sarah L.
Arresting Officer	Pierce, Jacob B.

**CHARGES**

<u># Charge</u>	<u>Grade</u>	<u>Description</u>	<u>Offense Dt.</u>	<u>Disposition</u>
1 18 § 4304 §§ A1	M1	Endangering Welfare of Children - Parent/Guardian/Other Commits Offense	09/13/2018	

MDJS 1200

Printed: 08/12/2019 10:44 am

Recent entries made in the court filing offices may not be immediately reflected on these docket sheets. Neither the courts of the Unified Judicial System of the Commonwealth of Pennsylvania nor the Administrative Office of Pennsylvania Courts assumes any liability for inaccurate or delayed data, errors or omissions on these docket sheets. Docket sheet information should not be used in place of a criminal history background check, which can only be provided by the Pennsylvania State Police. Employers who do not comply with the provisions of the Criminal History Record Information Act (18 Pa.C.S. Section 9101 et seq.) may be subject to civil liability as set forth in 18 Pa.C.S. Section 9183.

**Magisterial District Judge 12-1-02****DOCKET**

Docket Number: MJ-12102-CR-0000348-2019

**Criminal Docket**

Commonwealth of Pennsylvania

v.

Sarah L. Fowler

Page 2 of 2

**DOCKET ENTRY INFORMATION**

<u>Filed Date</u>	<u>Entry</u>	<u>Filer</u>	<u>Applies To</u>
08/06/2019	Summons Issued	Magisterial District Court 12-1-02	Sarah L. Fowler, Defendant
08/06/2019	First Class Summons Issued	Magisterial District Court 12-1-02	Sarah L. Fowler, Defendant
08/06/2019	Certified Summons Issued	Magisterial District Court 12-1-02	Sarah L. Fowler, Defendant
08/06/2019	First Class Fingerprint Order Issued	Magisterial District Court 12-1-02	Sarah L. Fowler, Defendant
08/06/2019	Fingerprint Order Issued	Magisterial District Court 12-1-02	Sarah L. Fowler, Defendant
08/06/2019	Certified Fingerprint Order Issued	Magisterial District Court 12-1-02	Sarah L. Fowler, Defendant
08/06/2019	Criminal Complaint Filed	Magisterial District Court 12-1-02	Sarah L. Fowler, Defendant



# EXHIBIT D



Commonwealth of Pennsylvania  
**Professional Standards and Practices Commission**

333 Market Street, Harrisburg, PA 17126-0333 Phone (717) 787-6576 TTY (717) 783-8445 FAX (717) 783-0734

January 17, 2020

John M. Arose, Esquire  
Killian & Gephart, LLP  
218 Pine Street  
P.O. Box 886  
Harrisburg, PA 17108-0886

Re: Department of Education v. Sarah L. Fowler  
PSPC Docket No. DI 19-204

Dear Attorney Arose:

Enclosed please find a copy of the Order issued by the Professional Standards and Practices Commission in the above-referenced matter.

Sincerely,

A handwritten signature in black ink, appearing to read "SFC", with a stylized flourish at the end.

Shane F. Crosby  
Executive Director

Enclosure

cc: Nicole M. Werner, Senior Counsel

**COMMONWEALTH OF PENNSYLVANIA  
PROFESSIONAL STANDARDS AND PRACTICES COMMISSION**

**DEPARTMENT OF EDUCATION,  
Petitioner,**

**v.**

**SARAH L. FOWLER,  
Respondent.**

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**DOCKET NO. DI-19-204**

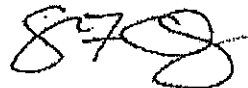
**ORDER**

AND NOW, this 17th day of January 2020, it is hereby ORDERED that the Department of Education is directed to IMMEDIATELY SUSPEND the educator certification and the eligibility to be employed as a charter or cyber charter school staff member or a contracted educational provider staff member of Respondent SARAH L. FOWLER pursuant to 24 P.S. § 2070.9b(a)(1). In electing not to contest the immediate suspension, Respondent does not admit any of the criminal allegations or that she poses a threat to the health, safety or welfare of students and/or other persons in the schools of this Commonwealth. Should Respondent be acquitted of the criminal charges or should the criminal charges be otherwise dismissed or removed, the Commission shall reinstate her educator certification and employment eligibility upon receipt of certified documentation of the acquittal or dismissal.

**PROFESSIONAL STANDARDS AND  
PRACTICES COMMISSION**

By: 

\_\_\_\_\_  
Myron Yoder  
Chairperson Pro Tempore



Date Mailed: January 17, 2020

Attest: \_\_\_\_\_

Shane F. Crosby  
Executive Director

### APPEALING A COMMISSION DECISION TO THE COMMONWEALTH COURT

The attached Memorandum and Order represents the final decision of the Professional Standards and Practices Commission in this matter. If a party disagrees with the Commission's attached decision, the party has the right to file a Petition for Review with the Commonwealth Court of Pennsylvania within thirty (30) days after the mailing date of the Commission's decision in accordance with the Pennsylvania Rules of Appellate Procedure. See Chapter 15 of the Pennsylvania Rules of Appellate Procedure entitled "Judicial Review of Governmental Determinations," Pa. R.A.P. 1501-1561. A Petition for Review may be filed in person, by mail or electronically via the PACFile appellate court electronic filing system. The Court's filing office is located at:

Commonwealth Court of Pennsylvania  
Pennsylvania Judicial Center  
601 Commonwealth Avenue, Suite 2100  
P.O. Box 69185  
Harrisburg, PA 17106

Copies of the Petition for Review must be served in person or by certified mail upon the Commission and the Attorney General of Pennsylvania. All other parties shall be served as prescribed by Rule 21(b) of the Pennsylvania Rules of Appellate Procedure.

Please direct questions about filing to the Chief Clerk's Office at 717-255-1650. For more information about PACFile and to register for a user account, visit the Pennsylvania Unified Judicial System Web Portal at: <https://uisportal.pacourts.us>.

Prior to filing a petition for review with the Commonwealth Court, a party may wish to consult an attorney.

An appeal to the Commonwealth Court shall operate as a stay of the discipline imposed until the resolution of the appeal, except where: (1) the grounds for discipline include sexual misconduct or sexual abuse or exploitation; (2) the Commission's decision is accompanied by a finding that immediate discipline is necessary to protect the health, safety or welfare of students or other persons in the schools of this Commonwealth; or (3) the discipline is the result of a negotiated settlement between the parties or is imposed under section 9b of the Educator Discipline Act (relating to discipline for criminal offenses). 24 P.S. § 2070.15.

### REQUESTING THE COMMISSION TO RECONSIDER ITS DECISION

A party may submit a request to the Commission for rehearing or reconsideration no later than fifteen (15) days after the decision mailing date in accordance with section 35.241 of the General Rules of Administrative Practice and Procedure. 1 Pa. Code § 35.241. Requests for rehearing or reconsideration will be granted only under very limited circumstances. The Commission, in most cases, cannot revisit its previous credibility determinations. Also, the Commission will not accept additional evidence, unless the party could not have presented the evidence at an earlier stage. Requests that merely reargue a party's case before the Commission will be denied.

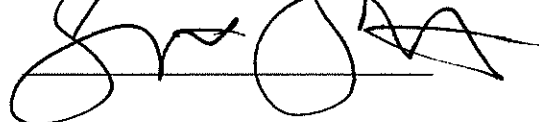
The submission of a request for reconsideration to the Commission does not extend the time limit for filing a Petition for Review with the Commonwealth Court.

### **CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of The Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Killian & Gephart, LLP

Signature:

A handwritten signature in black ink, appearing to read 'Scott P. Stedjan', written over a horizontal line.

Name: Scott P. Stedjan, Esquire

Date: October 15, 2020

PA I.D. No. : 318851

**CERTIFICATE OF SERVICE**

Pursuant to Pa.R.A.P 1514(c), I certify that on this day I will cause the  
Petition for Review in the Nature of a Complaint to be served upon the following  
by hand delivery at the addresses listed below:

**Via Hand Delivery**

Pennsylvania Department of Human Services  
625 Forester Street  
Harrisburg, PA

Teresa D. Miller, Secretary  
Department of Health and Human Services  
625 Forester Street  
Harrisburg, PA

Pennsylvania Professional Standards and Practices Commission  
333 Market Street, 14<sup>th</sup> Floor  
Harrisburg, PA

Pennsylvania Office of Attorney General  
Strawberry Square  
Harrisburg, PA

Dated: October 15, 2020



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Scott P. Stedjan, Esquire  
PA I.D. No.: 318851  
KILLIAN & GEPHART, LLP  
218 Pine Street  
Harrisburg, PA 17101  
TEL: (717) 232-1851  
[sstedjan@killiangephart.com](mailto:sstedjan@killiangephart.com)  
*Counsel for the Petitioner*